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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,950	09/16/2003	Daniel J. de Waal	G&C 31003.24-US-U2	3855

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EXAMINER
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DEODHAR, OMKAR A

ART UNIT	PAPER NUMBER
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3714

MAIL DATE	DELIVERY MODE
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09/08/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/663,950	<b>Applicant(s)</b> DE WAAL ET AL.	
	<b>Examiner</b> OMKAR A. DEODHAR	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20,23-50 and 53-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20,23-50,53-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

**Non-Final Rejection**

***Response to Amendment & Arguments***

This is responsive to Applicant's amendment & arguments submitted 3/12/2008 & RCE filed 6/12/2008.

Applicant's arguments have been fully considered but are not persuasive.

Applicant has amended claims 16 & 46 to clarify that the recorded game play outcomes include intermediary outcomes, as well as final outcomes.

Applicant argues that Boushy fails to teach receipt of game play outcomes from a plurality of game play outcomes which include intermediary outcomes. Be that as it may, Walker teaches this feature. In the rejection of claims 16, 23, 46 & 53, Examiner discussed at length Walker's teaching of intermediate outcomes with reference to Figure 5B (the game where a player must obtain 100 lemons: the first outcome is obtaining the first lemon & the last outcome is obtaining the 100<sup>th</sup> lemon. Lemons 2-99 are intermediate outcomes).

Regarding the claimed recording of game play outcomes (intermediate, non-winning, final), the prior art of Walker & Boushy teach player tracking.

Consequently, all claim rejections are respectfully maintained.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 1-7, 13-20, 23, 29-37, 43-50, 53, 59 & 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (US 6,692,353 B2) in view of Boushy (US 5,761,647).**

Regarding claims 1 & 31 Walker discloses receiving a first set of game outcomes from play of a game associated with a first slot machine, storing the first set of game data in a database, receiving a second set of game outcomes from play of a second game associated with a second slot machine and storing the second set of game outcomes in the database. Specifically, Walker discloses a bonus game wherein a player may obtains game outcomes from a plurality of slot machines (col. 2, lines 31-33). The game outcomes are then stored in a database (Figs. 6A-6C). The game play outcomes comprise final and intermediary outcomes, and the bonus is awarded at least in part on the intermediary outcomes. For instance, in the game where a player must obtain 100 lemons, the first outcome is obtaining the first lemon and the last outcome is obtaining the 100<sup>th</sup> lemon. Lemons 2-99 are intermediate outcomes, but are still necessary for awarding the bonus. Additionally, the bonus, or comp points, awarded by Boushy are based on the amounts wagered by a player. The higher the wager, the larger the bonus, regardless of whether the outcome is the first, intermediate, or final outcome of the gaming session.

Walker does not disclose storing game outcomes received from a first enterprise, and storing game outcomes received from a second enterprise independent of the first, wherein the term enterprise is interpreted to mean a business organization.

Boushy discloses a customer tracking system and method wherein a customer is awarded bonus points based on their tracked activity at a plurality of casino properties (abstract). The tracking system maintains all wagering activity, including a first set of wagering activity from game play at a first enterprise, and a second set of wagering activity from game play at a second enterprise, wherein all game play data is stored in a database (col. 8, lines 55-64). Boushy discloses accumulating all wagering data, including the customer's estimated average daily winnings (col. 12, lines 55-67), however Boushy does not specifically disclose storing game outcomes. The player tracking system disclosed by Boushy is well known in the art. In a typical player tracking system, a player is issued a card containing an identifier that tracks all activity, including wagering activity and transactions made at a participating casino, and issues a player comps based said activity. It would have been obvious to one of ordinary skill in the art to combine the gaming outcome storage of Walker with the inter-casino player tracking of Boushy in order to expand the number of slot machines on which a player may participate in the bonus game of Walker. The analogous inventions disclosed by Walker and Boushy both disclose tracking customer playing activity and issuing awards based on said tracked activity. Additionally, Walker discloses that the invention may be implemented over the Internet (col. 5, lines 33-36), which may contemplate providing gaming machines in remote locations, such as independent enterprises.

Regarding claims 2 & 32 Walker discloses that the game outcomes are stored in a database associated with an identity of a player (col. 10, lines 11-25).

Regarding claims 3 & 33 Boushy discloses that the database is maintained by an enterprise organizationally distinct from the first enterprise and the second enterprise (col. 4, lines 16-25).

Regarding claims 4 & 34 a player may be awarded a bonus based on the first set of game outcomes and the second set of game outcomes associated with a player. As disclosed in Walker, a player's gaming outcomes are stored for each play session at a slot machine and a bonus may be issued based upon said sets of gaming outcomes (col. 14, lines 25-39). Additionally, Boushy discloses that the player is awarded comp points, i.e. a bonus, for their tracked betting activity (col. 8, line 55- col. 9, line 2). The player may exchange these points, gifts, meals, cash, etc. (abstract).

Regarding claims 5 & 35 Walker discloses that the bonus may be awarded based on a parameter set (col. 5, lines 1-3; col. 7, lines 28-39).

Regarding claims 6 & 36 Walker discloses that the bonus parameter set may include a time period in which the outcomes in the first set of game outcomes occurred and the outcomes in the second set of game outcomes occurred (col. 9, lines 10-32).

Regarding claims 7 & 37 the bonus parameter set may include a minimum-qualifying wager. This is true of Walker, as the slot machine requires a minimum wager to be made in order to proceed with play of the primary game, and because the bonus is awarded based on the outcomes of the primary game, a minimum wager must be made in order to qualify for the bonus.

Regarding claims 13 & 43 wherein the first and second set of game outcomes comprise winning outcomes and losing outcomes, several of the games disclosed by

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Walker involve obtaining a predetermined number of symbols, as can be seen in Fig. 5B, wherein a bonus game is disclosed wherein obtaining 100 lemons qualifies a player for an award. The lemons may be obtained in any number of slot machine reel display configurations, including non-winning configurations. For instance a player may obtain a reel configuration of cherry, lemon, and bar, which may not qualify for an award in the primary game payable but puts the player at having obtained 100 lemons, earning them a bonus rewards. Therefore, the gaming outcomes may comprise winning and non-winning configurations.

Regarding claims 14, 15, 29, 30, 44, 45, 59 & 60 Boushy discloses tracking player wagering data at live table games, and further that tracking players at live table games involves reading an identification card and entering betting data (col. 5, line 65 – col. 6, line 7).

Regarding claims 16, 23, 46 & 53 Walker discloses accepting, recording and comparing a plurality of game play outcomes comprising winning and non-winning outcomes, including losing outcomes, and awarding a bonus if the game play outcomes match the qualifying game play outcome requirement. One of the games disclosed by Walker involves obtaining a predetermined number of symbols, as can be seen in Fig. 5B, wherein a bonus game is disclosed wherein obtaining 100 lemons qualifies a player for an award. The lemons may be obtained in any number of slot machine reel display configurations, including non-winning configurations. For instance a player may obtain a reel configuration of cherry, lemon, and bar, which may not qualify for an award in the primary game payable but puts the player at having obtained 100 lemons, earning them

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a bonus rewards. Therefore, the gaming outcomes may comprise winning and non-winning configurations. Further, the game play outcomes comprise final and intermediary outcomes, and the bonus is awarded at least in part on the intermediary outcomes. For instance, in the game where a player must obtain 100 lemons, the first outcome is obtaining the first lemon and the last outcome is obtaining the 100<sup>th</sup> lemon. Lemons 2-99 are intermediate outcomes, but are still necessary for awarding the bonus. Additionally, the bonus, or comp points, awarded by Boushy are based on the amounts wagered by a player. The higher the wager, the larger the bonus, regardless of whether the outcome is the first, intermediate, or final outcome of the gaming session. The bonus is computed based at least in part on non-winning outcomes.

Regarding claims 17 & 47 Walker discloses that the bonus may be awarded if the game play outcomes match the qualifying game play outcome requirement within a qualifying time period (Fig. 5A, "Game Time Limit"; col. 9, lines 12-15).

Regarding claims 18 & 48 Walker discloses the qualifying game play outcome requirement is a combination of game play outcomes (Fig. 5B).

Regarding claims 19 & 49 Walker discloses the combination of game play outcomes includes a sequence of game play outcomes (col. 8, lines 28-41).

Regarding claims 20 & 50 neither Walker nor Boushy disclose awarding a bonus for obtaining a sequence of game play outcomes that include wildcard game play outcomes. However, awarding a player for obtaining a wildcard is notoriously well known to one of ordinary skill in the art, and would have been an obvious addition to the teachings of Walker and Boushy.



**Claims 8-12 & 38-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (US 6,692,353 B2) in view of Boushy (US 5,761,647) and further in view of Acres (US 6,319,125).**

Regarding claims 8 & 38 Walker in view of Boushy disclose a method of tracking game play by collecting game outcome data from a plurality of gaming establishments and storing by player identity, and further issuing an award based on said game outcome data. Neither Walker nor Boushy disclose awarding a progressive bonus that is incremented based upon the stored first set of game outcomes associated with a set of participating progressive bonus players and the stored second set of game outcomes associated with the set of participating progressive bonus players. Walker does disclose that the bonus may be issued to a set of participating players (col. 14, lines 25-39) and that the bonus parameter set may include a timer period in which both sets of game outcomes must occur (col. 9, lines 11-15).

Acres discloses a method of awarding a progressive jackpot bonus prize beginning in column 7, line 65 and continues through column 9 line 12, wherein a first set of players is awarded an initial bonus and a secondary subset of eligible players are awarded a second bonus, referred to as a consolation prize.

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Walker, Boushy and Acres in order to provide a multiproperty player tracking system that allows customers to participate in a progressive bonus game as can be seen in Fertitta, III et al. (US 6,302,793), wherein Fertitta discloses such an invention.

Regarding claims 9, 10, 39 and 40 Walker discloses that a first portion of the bonus may be awarded to one of the participating player based on their accumulated game outcomes and that a second portion of the bonus may be awarded to a subset of the players based upon their accumulated game outcomes in col. 15, lines 21-42.

Regarding claims 11 & 41 Walker discloses that the games are poker games (col. 3, lines 54-57) and the qualifying outcome is a number of poker hands (col. 10, lines 38-47).

Regarding claims 12 & 42 wherein a selected player may be awarded a second bonus based upon the first and second set of game outcomes and a second bonus parameter set, in Fig. 5B Walker discloses that upon obtaining 6 jackpots (i.e. bonuses) with payouts of more than 20 tokens, a player may be awarded a second bonus of \$30.

**Claims 24-28 & 54-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (US 6,692,353), Boushy (US 5,761,647) Acres (US 6,319,125) and further in view of McCrea, Jr. (US 6,346,044).**

Walker, Boushy and Acres do not disclose a progressive jackpot that is incremented based on an increment qualifying outcome. Acres discloses incrementing the progressive jackpot by a base percentage of every wager received (col. 6, lines 18-34), however, McCrea discloses a progressive jackpot that may be incremented upon the occurrence of certain game outcomes, for instance if the dealer busts in a game of blackjack (Fig. 6c, stage 672-675). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of a multi-enterprise player tracking system featuring a progressive jackpot of Walker, Boushy, Acres with the

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teachings of McCrea to utilize a qualifying outcome in order to increment a progressive jackpot as this is merely a design choice available to the gaming facility. Changing the method by which the progressive jackpot is funded does not render the invention new, novel or unobvious.

Regarding claims 25 & 27, wherein the game includes a second progressive jackpot, Acres discloses a plurality of networked gaming devices linked to contribute to a plurality of bonus pools. Column 4, lines 49-54 describe the process by which the bonus pools are funded as "A base percentage 303 of each wager 301 is accumulated into a bonus pool 304 for funding each bonus prize. Optionally, a secondary percentage 305 of each wager 301 is accumulated into a "hidden" pool 306 for creating a seed value for the next bonus prize." Similar to incrementing the first progressive jackpot upon the occurrence of increment-qualifying event, it is a design choice to increment the second progressive jackpot upon the first progressive jackpot reaching a maximum. Additionally, Acres discloses utilizing consolation prizes to be awarded to a subset of participating players in addition to the progressive jackpot being awarded to a first player upon obtaining a progressive jackpot qualifying outcome (col. 7, line 65 - col.8 line 67).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OMKAR A. DEODHAR whose telephone number is (571)272-1647. The examiner can normally be reached on M-F: 8AM - 4:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/OAD/

/Robert E Pezzuto/  
Supervisory Patent Examiner, Art Unit 3714